

June 1, 2005

DOCKET FILE COPY ORIGINAL


Ms. Marlene Dortch
Federal Communications Commission
Office of the Secretary
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Petition for Rule Making
Waukomis, Oklahoma (Channel 292A)

Dear Ms. Dortch:

Enclosed is an original and four (4) copies of my
Petition for Rule Making for Channel 292A at Waukomis,
Oklahoma.

Respectfully submitted,


Linda Crawford
d/b/a Waukomis Broadcasting
3500 Maple Ave., #1320
Dallas, Texas 75219
(214) 289-5333

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To: Office of the Secretary
Attn: Assistant Chief, Audio Division,
Media Bureau

Pursuant to 47 C.F.R. 1.401, Linda Crawford, d/b/a Waukomis Broadcasting, respectfully petitions the FCC to institute a Rule Making proceeding to amend the FM Table of Allotments to add Channel 292A to Waukomis, Oklahoma.

Petitioner respectfully submits that the public interest would be served by allocating Channel 292A to Waukomis, Oklahoma as that community's first local FM service. Waukomis is an incorporated community with a population of 1,261 people.¹ Waukomis has its own mayor, its own public school system,² fire department, City

² Waukomis Public School System, PO Box 729, Waukomis, OK 73773, (580) 758-3247.

Hall, post office and a number of local churches. Waukomis is a community that is certainly deserving of a local FM service. "Local radio stations play an important role in their communities, providing local news, information and entertainment to residents, and generally serving as good corporate citizens in the local community life. This is particularly true in smaller towns, where the radio stations are limited in number. Yet there are still rural areas of our country that do not have even a local radio station."³ The proposed channel 292A will provide additional diversity and an outlet for local self-expression to Waukomis residents and therefore is in the public interest.

In order for Channel 292A to be allotted to Waukomis, Oklahoma, station KYQQ Channel 293C at Arkansas City, Kansas must be reclassified to a C0. (See, Attachment A, Request to Reclassify Statement)

Attached hereto is a channel study confirming that Channel 292A can be allocated to Waukomis, Oklahoma, consistent with the FCC's FM separation rules provided the reclassification is made at Arkansas City, Kansas. See revision of FM Assignment Policies and Procedures, 90

³ Statement of Commissioner Kevin J. Martin, MM & O, MM Docket 99-240, released May 20, 2004.

FCC 2d 88 (1992). (See, Attachment B) MM & O, FCC 05-64, released March 14, 2005, set aside an earlier staff action which moved station KWFY, Channel 262C1/ Woodward, Oklahoma to 292C1/ Woodward. (See, Attachment C) Reference coordinates for Channel 292A at Waukomis, Oklahoma are:

36 13 15 N
97 54 42 W

Should this petition be granted and Channel 292A is allotted to Waukomis, Oklahoma, Petitioner will apply for Channel 292A at Waukomis and after it is authorized, will promptly construct the new facility.

The factual information provided in this Petition for Rule Making is correct and true to the best of my knowledge.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Linda Crawford", is written over the printed name.

Linda Crawford
d/b/a Waukomis Broadcasting
3500 Maple Ave., #1320
Dallas, Texas 75219
(214) 289-5333

cc: Gene A. Bechtel, Law Office of Gene Bechtel, Suite
600, 1050 17th Street, N.W., Washington, D.C. 20036,
telephone (202) 496-1289, telecopier (301) 762-0156,
attorney for Linda Crawford, d/b/a/ Waukomis Broadcasting.
It is requested that the Commission and any parties who may
file pleadings in the captioned matter serve copies to Mr.
Bechtel as well as Linda Crawford, d/b/a Waukomis
Broadcasting.

June 1, 2005

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Attachment A

(Request to Reclassify Statement for station KYQQ Channel
293C Arkansas City, Kansas)

Linda Crawford
d/b/a Waukomis Broadcasting
3500 Maple Ave., #1320
Dallas, Texas 75219


Petition for Rule Making
FM Channel 292A
Waukomis, Oklahoma
June 1, 2005

Attachment A

Request to Reclassify
Station KYQQ(FM), Arkansas City, Kansas
Pursuant to MM Docket 98-93

Radio Station KYQQ(FM), Arkansas City, Kansas is licensed to Journal Broadcast Corporation, 3355 s. Valley View Boulevard, Las Vegas, NV 89102, (Facility ID 37121), FCC File No. BLH 19880120KA. The facility operates with a power of 100 kilowatts with center of radiation 390 meters height above average terrain. The above captioned Docket 98-93 provides the mechanism to automatically downgrade a Class C facility to Class C0 when a demand is made for the spectrum, as is the case here. Linda Crawford, d/b/a/ Waukomis Broadcasting, respectfully requests that the license of Radio Station KYQQ(FM) be modified to specify operation on FM Channel 293C0 instead of on FM Channel 293C in accordance with the above Docket which provides for such downgrades when a demand for the unused spectrum is made, as is the case here.

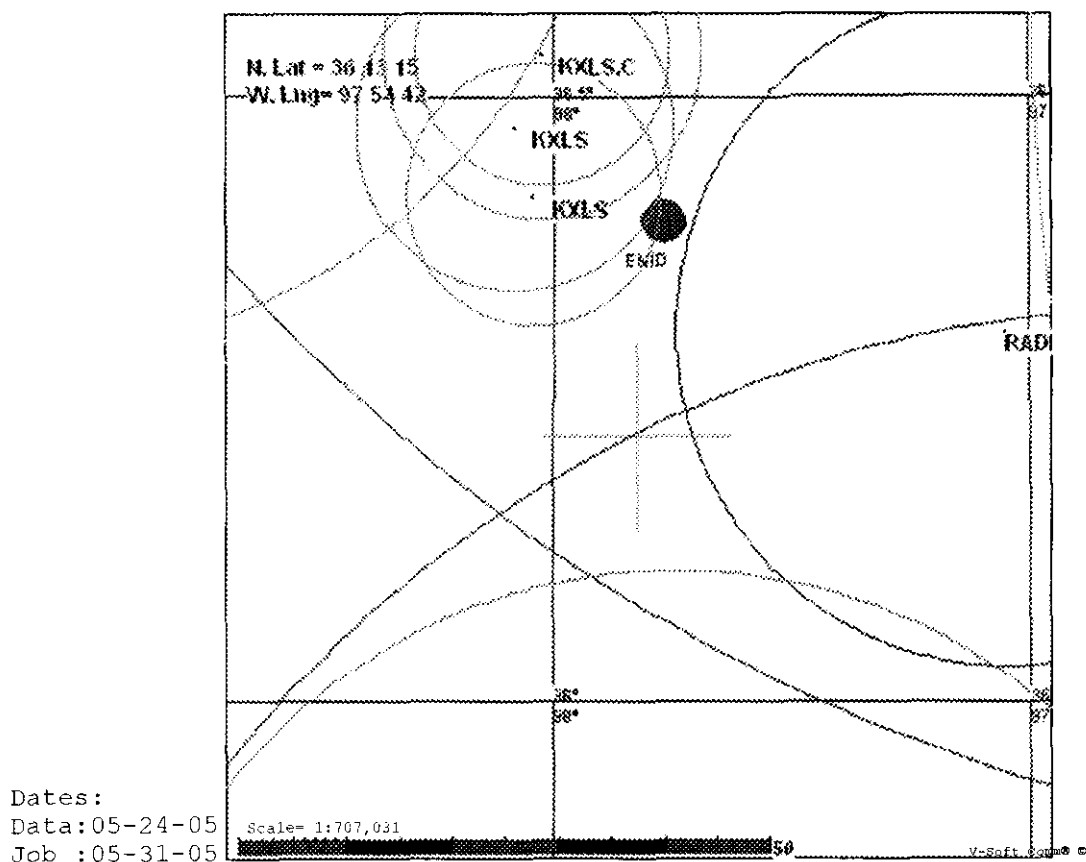
Linda Crawford, d/b/a Waukomis Broadcasting, the proponent of Channel 292A at Waukomis, Oklahoma, in accordance with the above Docket, formally requests that the Commission reclassify Radio Station KYQQ(FM) as a Class C0 facility. Linda Crawford, d/b/a Waukomis Broadcasting, certifies that no alternative channel is available for the service she proposes at Waukomis, Oklahoma as is proposed in the Petition for Rule Making. A copy of this Petition for Rule Making is being served on Journal Broadcast Corporation, as is required in the above Docket.


Linda Crawford
d/b/a Waukomis Broadcasting

KYQQ

Attachment B

(Channel Study for Channel 292A at Waukomis, Oklahoma)

FM PROSP^(TM) LOCATE STUDY CH 292 A 106.3 MHz

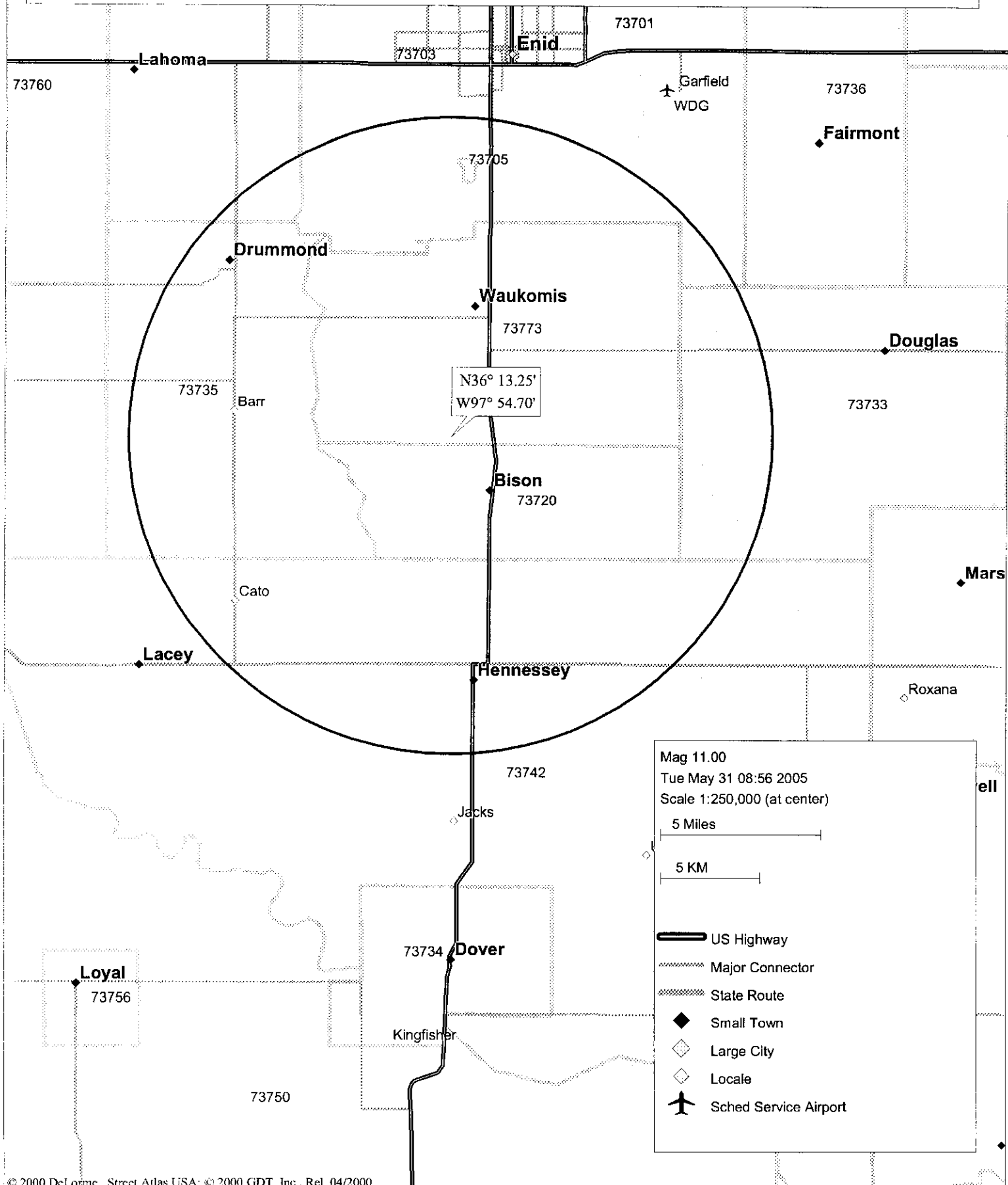
Dates:

Data:05-24-05

Job :05-31-05

Call	CH#	Type	Location		D-KM	Azi	FCC	Margin
RADD	292C1	ADD	Woodward	OK	135.85	280.2	200.0	-64.15
RADD	292C1	ADD	Woodward	OK	140.37	276.1	200.0	-59.63
KWFX.C	292C1	CP	Woodward	OK	141.51	277.4	200.0	-58.49
KYQQ	293C*	LIC	Arkansas City	KS	151.73	33.4	165.0	-13.27
KGOU	292A	LIC	Norman	OK	114.81	154.1	115.0	-0.19
RADD	290A	ADD	Covington	OK	36.02	74.4	31.0	5.02
KXLS	239C3	LIC N	Lahoma	OK	24.20	336.4	12.0	12.20
KTUZFM	294C2	LIC N	Okarche	OK	67.46	177.0	55.0	12.46
KXLS	239C2	RSV	Lahoma	OK	30.61	338.0	15.0	15.61
KXLS	239C2	RSV	Lahoma	OK	30.61	338.0	15.0	15.61
KXLS	239C2	RSV	Lahoma	OK	30.61	338.0	15.0	15.61
KXLS.A	239C2	APP N	Lahoma	OK	36.18	345.9	15.0	21.18
KXLS.C	239C3	CP	Lahoma	OK	36.18	345.9	12.0	24.18
KTTL.C	289C2	CP	Alva	OK	84.80	317.9	55.0	29.80
KQLLFM	291C*	LIC	Owasso	OK	205.48	79.8	165.0	40.48
KROU	289A	LIC N	Spencer	OK	79.98	151.1	31.0	48.98
KROU.A	289A	APP	Spencer	OK	79.99	151.1	31.0	48.99
KQLLFM	291C1	VAC	Owasso	OK	205.83	91.4	133.0	72.83

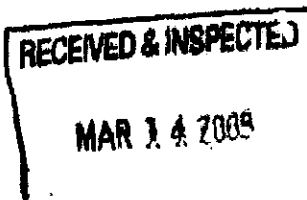
Waukomis, OK CH 292A 70 dBu



Attachment C

(MM & O, FCC 05-64, released March 14, 2005)

Before the
Federal Communications Commission
Washington, D.C. 20554



In the Matter of)
)
Amendment of Section 73.202(b),)
Table of Allotments,) MM Docket No. 98-155
FM Broadcast Stations.) RM-9082
(Alva, Mooreland, Tishomingo, Tuttle and) RM-9133
Woodward, Oklahoma))

MEMORANDUM OPINION AND ORDER

Adopted: March 10, 2005

Released: March 14, 2005

By the Commission:

1. The Commission has before it an Application for Review filed by Chisholm Trail Broadcasting Co. ("Chisholm Trail") directed to the staff reconsideration order in this proceeding.¹ Ralph Tyler filed an Opposition to Application for Review. Chisholm Trail filed a Reply to Opposition to Application for Review and a Supplement to Application for Review. For the reasons discussed below, we are granting the Application for Review to the extent of setting aside the staff action reallocating Channel 259C3 to Tuttle, Oklahoma.

BACKGROUND

2. The *Report and Order* in this proceeding denied a request by Ralph Tyler ("Tyler"), licensee of Station KTSH, Channel 259C3, Tishomingo, Oklahoma, to reallocate Channel 259C3 from Tishomingo to Tuttle, Oklahoma, and modify his Station KTSH license to specify Tuttle as the community of license.² The reason for that denial was that the sole remaining service in Tishomingo, noncommercial educational ("NCE") FM Station KAZC, did not provide any portion of Tishomingo with a principal city 70 dBu signal. As such, the staff concluded that Station KAZC should not be treated as providing a "local" service to Tishomingo. On this basis, the staff rejected the proposed Tuttle reallocation because it would result in the removal of sole local service from Tishomingo. The staff subsequently denied Tyler's reconsideration petition.³

3. Tyler sought review. Thereafter, Tyler filed a Motion to Leave to File Supplement to Application for Review as well as a Supplement to Application for Review. The Supplement stated that

¹ *Alva, Mooreland, Tishomingo, Tuttle and Woodward, Oklahoma*, 17 FCC Rcd 14722 (MB 2002) ("Tyler Reconsideration MO&O").

² *Alva, Mooreland, Tishomingo, Tuttle and Woodward, Oklahoma*, 16 FCC Rcd 1525 (MMB 2000) ("Report and Order").

³ *Alva, Mooreland, Tishomingo, Tuttle and Woodward, Oklahoma*, 16 FCC Rcd 7979 (MMB 2001) ("Reconsideration MO&O").

NCE FM Station KAZC commenced operation in Tishomingo with upgraded facilities. Station KAZC now operates with the equivalent of Class C2 facilities which more than replicate the Class C3 operation of Station KTSH in Tishomingo. The *Tyler Reconsideration MO&O* concluded that the upgraded operation of Station KAZC removed the sole impediment in this proceeding to favorable action on the Tyler reallocation proposal. The *Tyler Reconsideration MO&O* reallocated Channel 259C3 from Tishomingo to Tuttle, Oklahoma, and modified the Station KTSH license to specify Tuttle as the community of license. In taking this action, the staff also determined that there was no public interest reason to withhold action in this proceeding pending the resolution of a separate inquiry involving Ralph Tyler and Station KAZC. The staff specifically noted that the allegations regarding Ralph Tyler and Station KAZC were outside the scope of this proceeding and the reallocation action would not prejudice that inquiry. Chisholm Trail filed an Application for Review directed to that *Tyler Reconsideration MO&O*.

4. Subsequent to the filing of the Application for Review, the Enforcement Bureau and Tyler have entered into a Consent Decree.⁴ Pursuant to this Consent Decree, Tyler surrendered the Station KTSH license, stipulated that he violated Sections 1.17 and 73.1015 of the Commission's Rules and requested dismissal of all his applications, pleadings and proposals currently pending before the Commission.⁵ Included among the proposals was his proposed reallocation of Channel 259C3 to Tuttle which remains pending due to the filing of the Application for Review.

DISCUSSION

5. In view of the fact that the former licensee of Station KTSH specifically withdrew any interest in a reallocation of Channel 259C3 to Tuttle, there is no basis to continue to go forward with any consideration of this reallocation proposal in the context of this proceeding. Consistent with our longstanding policy, we will not allot or reallocate any channel in the absence of a continuing expression of interest in the allocation proposal.⁶ Since the reallocation in this proceeding has not become final, we are setting aside the earlier staff action and returning Channel 259C3 to Tishomingo, Oklahoma.

6. We recognize that as a result of this action, it will now be possible for interested parties to file either applications or rulemaking proposals that otherwise would have been precluded by a Channel 259C3 allocation at Tuttle. To ensure that all parties have a fair opportunity to file applications and rulemaking proposals made possible by the restoration of the Tishomingo allocation, we hereby, on our own motion, designate that the effective date of this *Order* is May 9, 2005.⁷ The Commission will accept such applications and rulemaking proposals beginning May 9, 2005, and will dismiss any such applications and proposals filed prior to this date.

⁴ See *In the Matter of Ralph H. Tyler*, 18 FCC Rcd 16241 (EB 2003).

⁵ Sections 1.17 and 73.1015 of the Rules require a permittee or licensee to provide truthful statements in response to Commission inquiries and correspondence.

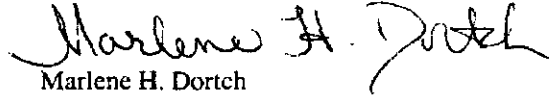
⁶ See *Santa Isabel, Puerto Rico and Christiansted, Virgin Islands*, 3 FCC Rcd 2336 (1988); *Oakdale and Campti, Louisiana*, 7 FCC Rcd 7600 (MMB 1992); *Mount Pleasant and Bogata, Texas*, 16 FCC Rcd 7858 (MMB 2001); *Grants and Milan, New Mexico*, 15 FCC Rcd 20293 (MMB 2000); *DeRuyter and Chittenango, New York*, 14 FCC Rcd 4411 (MMB 1999).

⁷ See 47 C.F.R. § 1.103(a).

7. Accordingly, IT IS ORDERED, That the aforementioned Application for Review filed by Chisholm Trail Broadcasting Co., Inc., IS GRANTED to the extent indicated above.⁸

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION


Marlene H. Dortch
Secretary

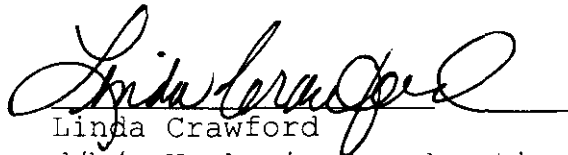
⁸ In its Application for Review, Chisholm Trail also argued that the existing policy of not considering basic qualification issues in an allotment proceeding should be revised to permit such an evaluation when a licensee seeks a change in community of license. In addition, Chisholm Trail contended that the staff erred in issuing a second *Memorandum Opinion and Order* when there was no legal or factual error in the first *Memorandum Opinion and Order*. In view of our action setting aside the reallocation of Channel 259C3 to Tuttle and the fact that Ralph Tyler is no longer a Commission licensee, these arguments need not be considered.

CERTIFICATE OF SERVICE

I, Linda Crawford, d/b/a Waukomis Broadcasting, hereby certify that on this 1st day of June, 2005, I caused copies of the foregoing "Petition for Rule Making for Waukomis, Oklahoma" to be placed in the U.S. Postal Service, first class postage prepaid, addressed to the following persons:

Journal Broadcast Corporation
Station KYQQ
3355S. Valley View Boulevard
Las Vegas, NV 89102

Gene Bechtel, Esq.
Law Offices of Gene Bechtel, P.C.
1050 17th Street, N.W., suite 600
Washington, D.C. 20036-5517


Linda Crawford
d/b/a Waukomis Broadcasting